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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 In re:
11 JOHN MAYFIELD BRAZIER, III,
12 Debtor.

CASE NO. C17-1526JLR

Bankruptcy Case No.
17-10187CMA

13 ORDER DENYING MOTION TO
14 PROCEED IN FORMA
15 PAUPERIS

16 JOHN MAYFIELD BRAZIER, III,
17 Appellant,
18 v.
19 RONALD G. BROWN,
20 Appellee.

21 **I. INTRODUCTION**

22 Before the court is Appellant John Mayfield Brazier, III's motion to proceed *in forma pauperis* ("IFP"). (IFP Mot. (Dkt. # 4).) The court has considered Mr. Brazier's

1 motion, the relevant portions of the record, and the applicable law. Being fully advised,¹
2 the court DENIES Mr. Brazier's IFP motion for the reasons set forth below.

3 II. BACKGROUND & ANALYSIS

4 On October 13, 2017, Mr. Brazier filed this bankruptcy appeal. (Letter (Dkt. # 2).)
5 In this Chapter 7 bankruptcy action, Mr. Brazier appeals the Bankruptcy Court for the
6 Western District of Washington's order directing the debtor to provide access to real
7 property and to vacate residence. (Trans. of Docs. (Dkt. # 1) at 1, 9-13.) Shortly after
8 filing the appeal, Mr. Brazier also moved to proceed IFP. (IFP Mot.) In the IFP motion,
9 Mr. Brazier represents that his household has four members. (*Id.* at 1, 3 (listing himself,
10 a spouse, and two children).) He further avers that his average monthly income during
11 the past 12 months has been \$20,400.00 from employment and \$5,000.00 from
12 self-employment and his spouse's average monthly income during the same period has
13 been \$42,000.00. (*Id.* at 1.) Elsewhere in the motion, Mr. Brazier states that his gross
14 monthly pay is \$8,700.00 and his spouse's gross monthly pay is \$42,000.00. (*Id.* at 2.)

15 "The court has the discretion under 28 U.S.C. § 1930(f)(1) to waive the filing fee
16 for a Chapter 7 case where the debtor has income less than 150 percent of the income
17 official poverty line applicable to the size of family involved." *In re Bussey*,
18 No. 14-32160, 2014 WL 2765703, at *1 (Bankr. N.D Ohio June 18, 2014); *see also* 28
19 U.S.C. § 1930(f)(1) ("[T]he district court or the bankruptcy court may waive the filing
20 fee in a case under [C]hapter 7 of [T]itle 11 for an individual if the court determines that

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22 ¹ Mr. Brazier did not request oral argument, and the court determines oral argument is unnecessary to its disposition of the motion. *See* Local Rules W.D. Wash. LCR 7(b)(4).

1 such individual has income less than 150 percent of the income official poverty
2 line . . . applicable to a family of the size involved and is unable to pay that fee in
3 installments.”); *In re Young*, No. 16-60353, 2017 WL 660642, at *1 (Bankr. W.D. Va.
4 Feb. 14, 2017) (“The Bankruptcy Abuse Prevention and Consumer Protection Act of
5 2005 (‘BAPCPA’) empowered bankruptcy courts to rule on applications to waive the fees
6 for filing an appeal by a Chapter 7 debtor, whether or not the debtor qualified for waiver
7 of the case filing fee.”). The debtor bears the burden of proving by a preponderance of
8 the evidence that his or her circumstances satisfy the requirements of the fee waiver
9 provision. *In re Bussey*, 2014 WL 2765703, at *1. The federal poverty line for a family
10 of four in 2017 is an annual household income of \$24,600.00. *See Annual Update of the*
11 *HHS Poverty Guidelines* (hereinafter, “*Annual Update*”), 82 Fed. Reg. 8831-32 (Jan. 31,
12 2017) (enumerating the 2017 poverty guidelines by household size).

13 Mr. Brazier does not qualify for waiver of the filing fee. (*See* IFP Mot.) Because
14 of the inconsistencies regarding Mr. Brazier’s monthly income, the court assumes that
15 Mr. Brazier’s monthly income is only \$8,700.00—the lower of the amounts he provides.
16 (*Compare* IFP Mot. at 1, *with id.* at 2.) Based on this reported monthly income, Mr.
17 Brazier’s annual income alone far surpasses 150% of the federal poverty line for a
18 household of four, which is \$36,900.00.² *See Annual Update*. Moreover, even if Mr.
19 Brazier meant to state that his annual income was \$20,400.00 or \$8,700.00 and his
20 spouse’s annual income was \$42,000.00—rather than that these amounts are average
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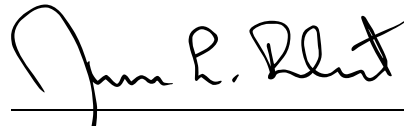
22 ² \$24,600.00 x 1.5 = \$36,900.00. *See Annual Update*.

1 monthly incomes—his household income is still well above the 150% threshold. (*See*
2 IFP Mot. at 1); *Annual Update*. Because Mr. Brazier does not meet the standard for
3 waiving the filing fee in a Chapter 7 appeal, the court denies Mr. Brazier’s IFP motion.
4 *See* 28 U.S.C. § 1930(f)(1) (stating that the court can waive the filing fee for an appeal in
5 a Chapter 7 case if the appellant demonstrates an annual household income of 150% or
6 less of the federal poverty line); *In re Bussey*, 2014 WL 2765703, at *1 (requiring such a
7 showing by a preponderance of the evidence).

8 **III. CONCLUSION**

9 For the foregoing reasons, the court DENIES Mr. Brazier’s IFP motion (Dkt. # 4),
10 and Mr. Brazier must pay the applicable filing fee to proceed with this appeal.

11 Dated this 14th day of November, 2017.

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14 JAMES L. ROBART
15 United States District Judge
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